

WHEREAS, in an unofficial opinion rendered June 30, 2000, the State Attorney General determined that municipalities may enact ordinances which allow for the enforcement of laws governing compliance with traffic Control devices through the use of cameras and other imaging technology.

THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS
as follows:

Section 1: The City of Atlanta is hereby authorized to enforce laws governing compliance with traffic control devices through the use of cameras or other imaging technology with respect to streets and highways under its jurisdiction.

Section 2: In connection with the enforcement of such laws as set forth in Section 1, in addition to any other penalties which may be imposed, civil monetary penalties shall be imposed and when imposed, shall be the responsibility of the owner of the vehicle. Said civil monetary penalties shall be imposed as follows:

[TO BE DETERMINED]

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Department of Labor
State of Georgia



THURBERT E. BAKER
ATTORNEY GENERAL

40 CAPITOL SQUARE SW
ATLANTA, GA 30334-1100

UNOFFICIAL OPINION U2000-7

To: Representative
House District 67

June 30, 2000

Re: Municipalities are not prohibited by Georgia's Constitution or laws from enacting ordinances regarding enforcement of traffic control devices by the use of **cameras**.

You have asked my opinion as to whether The Municipal Home Rule Act of 1965, O.C.G.A. § 36-35-1, et seq. ("the Home Rule Act"), allows municipalities to enact local ordinances whereby compliance with traffic control devices may be enforced through the use of **cameras** or other imaging technology. For the reasons set forth below, it is my opinion that such enforcement efforts are not prohibited by Georgia's Constitution or laws.

The Georgia Constitution permits the General Assembly to delegate its power to municipalities "so that matters pertaining to municipalities may be dealt with without the necessity of action by the General Assembly." Ga. Const. Art. IX, Sec. II, Para. II. The expression of that delegation is the Home Rule Act, O.C.G.A. § 36-35-1, et seq.

The General Assembly has delegated to "[t]he governing authority of each municipal corporation [the] legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law and which are not inconsistent with the Constitution or any charter provision applicable thereto." O.C.G.A. § 36-35-3(a). The home rule authority of municipalities is further limited by O.C.G.A. § 36-35-6, which expressly prevents local enactment relating to "any . . . matters which the General Assembly by general law has preempted or may hereafter preempt." That Code Section further sets forth additional specific categories of matters the regulation of which is reserved exclusively to the General Assembly. O.C.G.A. § 36-35-6(a)(1) to (7).

As you have noted in your request, Georgia's Constitution further provides that "any . . . municipality . . . may exercise the following powers and provide the following services: . . . (4) [s]treet and road construction and maintenance, including curbs, sidewalks, street lights, and devices to control the flow of traffic on streets and roads constructed by counties and municipalities or any combination thereof." Ga. Const. Art. IX, Sec II, Para. III. Furthermore, "local authorities" are not prohibited "with respect to streets and highways under . . . their jurisdiction and within the

reasonable exercise of the police power from: . . . (2) [r]egulating traffic by means of police officers or official traffic control devices." O.C.G.A. § 40-6-371(a).

"A municipality may regulate and control the use of the public roads on its municipal street system and on portions of the county road systems extending within the corporate limits of the municipality." O.C.G.A. § 32-4-92(a)(7). See also 1974 Op. Atty Gen. U74-94. Moreover, "official traffic control devices" are defined as "all signs, signals, markings, and devices not inconsistent with this title which are placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic." O.C.G.A. § 40-1-1(37).

The scheme which you have described for the video enforcement of traffic control devices would apparently include civil monetary penalties which, when imposed, would be the responsibility of the owner of the vehicle. Violations of traffic control devices would be detected by the video equipment erected at or near the device, and recorded for use in enforcing this civil monetary penalty.

It is my unofficial opinion that municipalities may undertake such regulation "with respect to streets and highways under their jurisdiction" by means of the enactment of local ordinances, so long as such is permitted by the charter of the individual municipal corporation, and further so long as such regulation is not hereafter preempted by action of the General Assembly.

Prepared by:

CHRISTOPHER S. BRASHER
Senior Assistant Attorney General

Would this exclude
state routes that
run through cities?

Decatur, Marietta to test red-light cameras

After getting a green light from the state attorney general's office, both Decatur and Marietta are preparing to test automated red-light camera technology that would allow them to cite offenders by mail.

Attorney General Thurbert Baker issued an unofficial opinion last month that state legislation would not be needed for local governments to use red-light cameras to photograph red-light runners.

That was welcome news to state Sen. Vincent Fort (D-Atlanta), who unsuccessfully pushed a bill for two years to legalize the cameras. With no legislation needed, cities and counties can pass ordinances and use red-light cameras.

"What we want to do is save lives, and photo enforcement does that," said Fort. "I think [red-light running] is getting worse all the time."

Decatur City Manager Peggy Merriss said the city plans a demonstration project with a



THE LANE RANGER

JOEY LEDFORD

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single red-light camera, probably in October.

To be set up at Scott Boulevard and Clairmont Avenue, a high accident intersection, the camera will likely be operating for a month to six weeks, she said.

"During that period, we'd just be collecting data," she said. "We wouldn't be issuing tickets. We haven't decided whether we'd issue warnings."

Warren Huttmacher, a management analyst for Marietta, said the Cobb County city is tentatively planning its own demonstration project for early to mid-fall at the intersection of Cobb Parkway and Windy Hill Road.

That intersection was once cited by State Farm Insurance as one of the most dangerous in the nation. "I would definitely stress that we won't be issuing any citations," he said.

The Insurance Institute for Highway Safety says red-light runners kill more than 800 people each year and injure more than 200,000. More than half of the deaths claimed by red-light runners are pedestrians.

Georgia ranked 11th in the institute's study of red-light running, with 195 deaths between 1992 and 1998.

Red-light cameras may be new to Georgia, but the technology has been used in Europe and Australia for about 20 years, said Terry Lynn, a spokesman for a leading vendor, Lockheed Martin's state and local government services divi-

sion, which also serves about 45 cities and counties in the United States and Canada.

"Any suggestion that it is untested technology is just untrue," he said.

Both Marietta and Decatur, however, are working with a local company, LaserCraft of Norcross, which says it has significantly upgraded the technology currently being used in Charlotte and elsewhere.

"They are using film in most of their places and we are going with a full digital image," said Scott Patterson, LaserCraft's president. "They will be able to call up the location and download the images [of offenders], which will be encoded so no one can tamper with them."

LaserCraft's cameras will detect vehicles that are going too fast to stop at a red light and will shoot its license plate as it does.

"If you are going more than, say, 10 [mph] when you approach that white line, the

assumption is that you will run that red light," Patterson said. Lockheed Martin offers to set up the cameras, develop the film, check motor vehicle records and mail out citations in exchange for a cut of the revenues. Decatur's Merriss said there's some question as to whether that would be legal in Georgia.

"I'm not sure that even if we could that we would go that route," she said. "We want to make sure people understand we're doing it to slow traffic down and get people to stop at red lights, not to start some sort of financial bonanza for the city."

Patterson estimated that equipping a single intersection could cost as little as \$40,000 to police one direction, or as much as \$200,000 to photograph light runners in multiple directions. "The final review would be an officer at the city or county signing off on that ticket," said Patterson.

00-0-1296

(Do Not Write Above This Line)

AN ORDINANCE

BY: COUNCILMAN LEE MORRIS

AN ORDINANCE TO AUTHORIZE THE ENFORCEMENT OF LAWS GOVERNING THE COMPLIANCE WITH TRAFFIC CONTROL DEVICES THROUGH THE USE OF CAMERAS OR OTHER IMAGING TECHNOLOGY; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

- ☐ CONSENT REFER
- ☐ REGULAR REPORT REFER
- ☐ ADVERTISE & REFER
- ☐ 1st ADOPT 2nd READ & REFER
- ☒ PERSONAL PAPER REFER

Date Referred 8/7/00

Referred To: Public Safety/Legal Admin

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
Date _____
Chair _____
Referred to _____

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION

- ☐ 2nd ☐ 1st & 2nd ☐ 3rd
- Readings
- ☐ Consent ☐ V Vote ☐ RC Vote

CERTIFIED

MAYOR'S ACTION